

<b>Notice of Allowability</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/826,074	HERBERGER ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	THANH T. VU	2175	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--**

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 11/03/2008.
2. ☒ The allowed claim(s) is/are 18 and 25-28.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☐ All    b) ☐ Some\*    c) ☐ None    of the:
    1. ☐ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
    3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).
  - \* Certified copies not received: \_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS ( as "replacement sheets") must be submitted.
  - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review ( PTO-948) attached
    - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_.
  - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_.

**Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).**
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

- |  |   |
|--|---|
| <ol style="list-style-type: none"> <li>1. <input type="checkbox"/> Notice of References Cited (PTO-892)</li> <li>2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)</li> <li>3. <input type="checkbox"/> Information Disclosure Statements (PTO/SB/08),<br/>Paper No./Mail Date ____</li> <li>4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit<br/>of Biological Material</li> </ol> | <ol style="list-style-type: none"> <li>5. <input type="checkbox"/> Notice of Informal Patent Application</li> <li>6. <input checked="" type="checkbox"/> Interview Summary (PTO-413),<br/>Paper No./Mail Date <u>11/21/2009</u>.</li> <li>7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment</li> <li>8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance</li> <li>9. <input type="checkbox"/> Other ____.</li> </ol> |
|--|---|

/Thanh T. Vu/  
Primary Examiner, Art Unit 2175

### EXAMINER'S AMENDMENT

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Terry Watt on 01/21/2009.

The application has been amended as follows:

Claims 1-17 (cancelled).

- 18.** *(Currently Amended)* A method of aligning a video work with an audio work, wherein said audio and video works are configurable to be played in concert with each other, and wherein there is provided an active video transition effect, comprising the steps of:
- a. automatically selecting a plurality of first audio markers in said audio work according to a first criterion, each of said selected audio markers having a first audio time of occurrence associated therewith;
  - b. automatically selecting a plurality of second audio markers in said audio work according to a second criterion, each of said selected second audio markers having a second audio time of occurrence associated therewith;
  - c. determining a priority of use of said first and second audio markers;

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- d. identifying at least one video marker within said video work, each of said identified video markers having a video time of occurrence associated therewith;
- e. selecting from among said first audio markers at least one first audio candidate marker, each of said selected first audio candidate marker having a time of occurrence proximate to said video time of occurrence;
- f. selecting from among said second audio markers at least one second audio candidate marker, each of said selected ~~first~~ second audio candidate marker having a time of occurrence proximate to said video time of occurrence;
- g. selecting one of said at least one first and at least one second candidate markers according to said determined priority;
- h. automatically synchronizing said active video transition effect with said selected candidate audio marker by at least adjusting a time duration of said active video transition effect;
- i. applying said synchronized active video transition effect to said video work proximate to said video marker, thereby creating an aligned video work; and,
- j. storing said aligned video work on a computer readable medium.

Claims 19-24 (Cancelled).

- 25.** (New) A method of aligning a video work with an audio work, wherein said audio and video works are configurable to be played in concert with each other, comprising the steps of:

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- a. selecting a plurality of audio criteria, wherein each of said selected plurality of audio criteria at least comprises a rule for identifying change points within said audio work;
- b. assigning a priority to each of said selected audio criteria;
- c. selecting a highest priority audio criterion from among said plurality of audio criteria;
- d. using each of said selected plurality of audio criteria to identify at least two change points within said audio work, each of said at least two change points being associated with said assigned priority of said audio criteria used to select it, thereby identifying a plurality of audio markers within said audio work, each of said plurality of audio markers having one of said assigned priorities associated therewith;
- e. identifying at least one video marker within said video work, each of said identified video markers having a video time of occurrence associated therewith;
- f. selecting one of said identified video markers and said video time of occurrence associated therewith;
- g. selecting an active video transition effect to apply at said selected video marker;
- h. automatically selecting one of said plurality of audio markers according to said priority associated therewith, wherein said time of occurrence of said selected audio marker is proximate to said video time of occurrence of said selected video marker;

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- i. automatically synchronizing said active video transition effect with said selected audio marker by only adjusting a time duration of said active video transition effect;
  - j. applying said synchronized active video transition effect to said video work proximate to said video marker, thereby creating an aligned video work; and,
  - k. storing said aligned video work on a computer readable medium.
- 26.** (New) A method of aligning a video work with an audio work according to Claim **25**, wherein step (h) comprises the steps of:
- (h1) choosing one of said plurality of audio markers, wherein said time of occurrence of said selected audio marker is proximate to said video time of occurrence of said video marker,
  - (h2) determining from a provided criterion for determining whether said chosen audio marker is suitable for use with said selected video marker,
  - (h3) if said chosen audio marker is determined to be suitable for use with said selected video marker, selecting said chosen audio marker,
  - (h4) if said chosen audio marker is determined not to be suitable for use with said selected video marker according to said criterion, performing steps (e1) through (e3) until either one of said chosen audio markers is found to be suitable or until all of said plurality of audio markers have been chosen, and,

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(h5) if after performing steps (e1) through (e4) none of said plurality of audio markers is suitable for use with said selected video marker, taking no further action with respect to the selected video marker.

**27.** (New) A method of aligning a video work with an audio work according to Claim **25**, comprising the further steps of:

- (l) reading said stored aligned video work from said computer readable media; and,
- (m) playing said aligned video work on a display device.

**28** (New) A method of aligning a video work with an audio work according to Claim **25**, wherein said computer readable medium is selected from the group consisting of computer RAM, non-volatile RAM, magnetic disk, a RAM card, optical disk, magneto-optical disk, and a floppy disk.

***Allowable Subject Matter***

Claims 18 and 25-28 are allowed.

The following is an examiner's statement of reasons for allowance:

The prior art either alone or in combination doesn't teach the limitations of :

- “a. automatically selecting a plurality of first audio markers in said audio work according to a first criterion, each of said selected audio markers having a first audio time of occurrence associated therewith;

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- b. automatically selecting a plurality of second audio markers in said audio work according to a second criterion, each of said selected second audio markers having a second audio time of occurrence associated therewith;
- c. determining a priority of use of said first and second audio markers;
- g. selecting one of said at least one first and at least one second candidate markers according to said determined priority;
- h. automatically synchronizing said active video transition effect with said selected candidate audio marker by at least adjusting a time duration of said active video transition effect;
- i. applying said synchronized active video transition effect to said video work proximate to said video marker, thereby creating an aligned video work” as recited in claim 18 in combination with the other claimed features.

The prior art either alone or in combination doesn't teach the limitations of:

- “a. selecting a plurality of audio criteria, wherein each of said selected plurality of audio criteria at least comprises a rule for identifying change points within said audio work;
- b. assigning a priority to each of said selected audio criteria;
- c. selecting a highest priority audio criterion from among said plurality of audio criteria;
- d. using each of said selected plurality of audio criteria to identify at least two change points within said audio work, each of said at least two change points being associated with said assigned priority of said audio criteria used to select it,

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- thereby identifying a plurality of audio markers within said audio work, each of said plurality of audio markers having one of said assigned priorities associated therewith;
- g. selecting an active video transition effect to apply at said selected video marker;
  - h. automatically selecting one of said plurality of audio markers according to said priority associated therewith, wherein said time of occurrence of said selected audio marker is proximate to said video time of occurrence of said selected video marker;
  - i. automatically synchronizing said active video transition effect with said selected audio marker by only adjusting a time duration of said active video transition effect;
  - j. applying said synchronized active video transition effect to said video work proximate to said video marker, thereby creating an aligned video work” as recited in claim 25 in combination with other claimed features.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled “Comments on Statement of Reasons for Allowance.”

***Inquiries***



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Any inquiry concerning this communication or earlier communications from the examiner should be directed to THANH T. VU whose telephone number is (571)272-4073. The examiner can normally be reached on Mon- Fri 7:00 AM - 3:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, William L. Bashore can be reached on (571) 272-4088. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Thanh T. Vu/  
Primary Examiner, Art Unit 2175